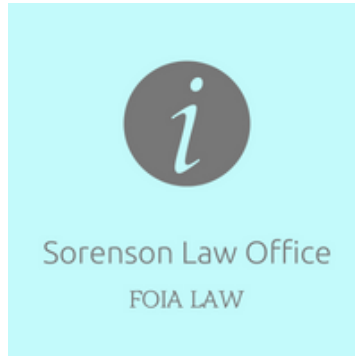


**Exhibit 4**



Sorenson Law Office  
PO Box 10836  
Eugene, Oregon 97440

September 1, 2022

Director  
Office of Information Policy (OIP)  
U.S. Department of Justice  
441 G Street, NW, 6th Floor  
Washington, D.C. 20530

SENT VIA PORTAL AT: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>

RE: Administrative Appeal of FOIA Request FOIPA No. 1548515-000

## **I. FACTUAL BACKGROUND**

On May 20, 2022, our law firm, on behalf of our law firm's client, John Christian Wilson, submitted a FOIA request to the Federal Bureau of Investigation (FBI) that sought:

1) All records, documents, or communications prepared by, received by or maintained by the FBI which mention the following terms:

John Christian Wilson

John C. Wilson

John Wilson

2) All records describing FBI informant or FBI agent contacts with  
John Christian Wilson

John C. Wilson

John Wilson

3) All records describing FBI contractors, or others operating on behalf of the FBI or other DOJ element, contacts with

John Christian Wilson

John C. Wilson

John Wilson

4) The 1996 securities analyst report on NYSE listed U.S. mining company Freeport McMoran Copper and Gold Inc (which trades on the NYSE under the symbol FCX) written by John Wilson. This report is entitled, "FCX: Grasberg Closure Highlights Political Risks." Mr. Wilson wrote the report as an analyst working for S.G. Warburg & Co. Inc. and the report was dated March 12, 1996.

5) All records describing the attendance of John Wilson at the Freeport McMoran Copper and Gold Inc. May 1996 annual analyst briefing at Freeport McMoran Copper and Gold Inc's headquarters in New Orleans, Louisiana. In particular, records are sought concerning an interaction between John Wilson and James R. Moffett (known as Jim Bob), CEO and Chairman of Freeport McMoran Copper and Gold Inc, in the boardroom alcove after the analyst question period that was held in Freeport McMoran's boardroom.

6) All records describing an interaction between John Wilson and an unnamed person, apparently a federal agent or FBI operative, also in Freeport's boardroom alcove after the analyst question period in Freeport's boardroom mentioned above at the Freeport headquarters in New Orleans, Louisiana in May 1996.

7) All records describing or documenting interactions between John Wilson and people operating on behalf of the FBI or other DOJ element, in particular by Steve Garber.

8) All records, including notes, recordings or transcripts of interviews, made by Steve Garber in early 1999 during the several days when Mr. Wilson visited Garber at his home in Prescott, AZ.

9) All records, including notes, recordings or transcripts, of a discussion or interview involving Mr. Wilson and Steve Garber in June 2004 in New York, New York.

10) All records, including notes, recordings or transcripts, of a discussion or interview involving Mr. Wilson and Steve Garber in September 2004, including at Tibet House, and

also the Blue Water Grill both in the vicinity of the Union Square neighborhood of New York, New York.

11) All records of the attendance involving John Wilson in connection with a presentation that Dave Foreman gave in New York, New York in late 1997. David Foreman (usually referred to as Dave) is a well-known American environmental activist and co-founder of environmental group Earth First! Dave Foreman was a subject of Susan Holmes for her work for the FBI.

12) All records pertaining to John Wilson concerning his attendance, or discussions with Susan Holmes or Dave Foreman on a raft trip on the Colorado River in July or August 1997 with journalists, including a reporter for Time Magazine, Ms. Holmes and Mr. Foreman.

13) All records of discussions between John Wilson and Susan Ackerson Holmes. All records describing or documenting interactions between John Wilson and people operating on behalf of the FBI or other DOJ element, in particular Susan Ackerson Holmes.

14) All records of discussions between John Wilson and Susan Holmes during the three years that they dated in New York, New York, calendar years 1994, 1995, 1996 and 1997.

15) All records of discussions between John Wilson and Susan Holmes in a May 10, 2003 (on or about) dinner conversation between Susan Holmes and John Wilson in New York, New York.

16) All telephone wiretaps on telephones used by John Wilson.

17) All records showing any applications for surveillance or wiretaps of telephones used by John Wilson.

18) All records showing any applications for search warrants for properties owned or leased by John Wilson.

19) All records showing any applications for surveillance of John Wilson.

The time frame for this request includes records created or received on or after January 1, 1994 to present. A form DOJ-361 signed by John Christian Wilson was included that allowed release of the records. Ex. 1.

On June 6, 2022, the FBI responded to Mr. Wilson's request and numbered it FOIPA No. 1548515-000. The response is attached as Ex. 2.

## II. THE FREEDOM OF INFORMATION ACT

The purpose of FOIA is to “open agency action to the light of public scrutiny.” *Dep't of the Air Force v. Rose*, 425 U.S. 352, 372 (1976). Former President Obama reinforced FOIA's strong presumption of disclosure with regard to all FOIA decisions. *See* Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009) (directing agencies to administer FOIA under a presumption that, “[i]n the face of doubt, openness prevails”). Former Attorney General Eric Holder issued FOIA guidelines that reinforce a commitment to open government, encouraging federal agencies to both “make discretionary releases of information” and to “make partial disclosures” when an agency determines full disclosure is not possible. *See* Former Attorney General Eric Holder's Memorandum for Heads of Executive Departments and Agencies (Mar. 19, 2009).

In his memo, the Former Attorney General also announced a “foreseeable harm” standard for defending agency decisions to withhold information under FOIA. *See id.* Thus, the DOJ will defend an agency's denial of a FOIA request “only if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or (2) disclosure is prohibited by law.” *Id.* These authorities have not been changed by the current Administration and remain in effect.

FOIA “mandates a policy of broad disclosure of government documents” and carries a strict disclosure mandate that requires federal agencies to expeditiously disclose requested records to requesters. *See* 5 U.S.C. § 552, *Church of Scientology v. Dep't of the Army*, 611 F.2d 738, 741 (9th Cir. 1980). Consequently, any inquiry under FOIA brings with it a “strong presumption in favor of disclosure.” *U.S. Dep't of State v. Ray*, 502 U.S. 164, 173 (1991). To that end, nothing in FOIA should be read to “authorize withholding of information or limit the availability of records to the public, except as specifically stated.” *See* 5 U.S.C. § 552(c). Congress recognized that in certain limited instances, records may be exempt from FOIA's broad disclosure mandate, and thus created nine categories of exemptions. § 552(b). These exemptions, however, “must be narrowly construed in light of FOIA's dominant objective of disclosure, not secrecy.” *Maricopa Audubon Soc'y. v. U.S. Forest Serv.*, 108 F.3d 1082, 1085 (9th Cir. 1996).

Accordingly, because FOIA carries a presumption in favor of disclosure, and indeed, because, “FOIA requesters face an information asymmetry given that the agency possesses the requested information and decides whether it should be withheld or disclosed,” *COMPTEL v. U.S. Federal Comm'n.*, 910 F. Supp. 2d 100, 111 (D.D.C. 2012) (internal citations omitted), agencies bear the

burden of justifying the withholding of any records that are responsive to a FOIA request. 5 U.S.C. §552 (a)(4). An agency must provide “a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.” *See King v. Dept. of Justice*, 830 F.2d 210, 219 (D.C. Cir. 1987) (agency must provide); *see also Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 861 (D.C. Cir. 1980) (holding an agency’s disclosure of “who wrote the [document], to whom it was addressed, its date, and a brief description” was “patently inadequate” to establish exemption under FOIA).

Under the FOIA Improvement Act of 2016, agencies are prohibited from denying requests for information under FOIA unless the agency reasonably believes release of the information will harm an interest that is protected by the exemption. *See* FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A).

### **III. FOIA REQUIRES AGENCIES CONDUCT A SEARCH WHEN REQUESTERS REASONABLY DESCRIBE THE RECORDS SOUGHT**

FOIA requires that a requester “reasonably describe” the records sought in sufficient detail that an agency professional familiar with the subject matter can locate the records with a “reasonable amount of effort.” *Ferri v. DOJ*, 573 F. Supp. 852, 859 (W.D. Pa. 1983). After a valid request has been made to the agency, that agency must “make reasonable efforts to search for records.” 5 U.S.C. § 552 (a)(3)(A)(C). The term “search” here means “to review, manually *or* by automated means, agency records for the purpose of locating those records which are responsive to a request.” *Id.* § (a)(3)(A)(D) (emphasis added).

On June 13, 2022, FBI stated “Records regarding your subject were previously reviewed and released to you pursuant to the FOIPA. An additional search was conducted for main entity records, and no additional records subject to the FOIPA were located. Therefore, your request is being administratively closed.” Ex. 3.

From 1994 to 1997 Mr. Wilson worked for SG Warburg (and later SBC Warburg) on Wall Street as an equity analyst covering US listed mining companies. Ex. 4.

One of the companies Mr. Wilson analyzed and published reports on, for distribution to fund managers globally, was U.S.-based Freeport McMoran. It was, and is, one of the world's largest and most valuable copper companies, worth many tens of billions of dollars. Through its subsidiary, Freeport Indonesia, Freeport McMoran controls the Grasberg Mine, one of the largest copper and gold mines in the world, situated in West Papua, Indonesia. *Id.*

On March 12, 1996, Mr. Wilson authored a report that flagged concerns about Freeport McMoran, which was under investigation by the United States Department of State following eyewitness reports of human rights abuses against indigenous protestors in the region of its massive Grasberg

gold and copper mine in West Papua, Indonesia. The Report mentioned the cancellation of the company's OPIC political risk insurance in October 1995 and was critical of the company's approach to resolving civil disputes. It was published and distributed to investors globally by Mr. Wilson's employer SG Warburg. *Id.*

Mr. Wilson was threatened in the Freeport McMoran (a mining company based in Phoenix, AZ) boardroom alcove in 1996 by an undisclosed person, presumably a federal agent, who seemed to know a lot about Mr. Wilson and the retribution Mr. Wilson was to face for his Freeport McMoran work, associating Mr. Wilson with people of interest to the FBI (and targets of agent Holmes FBI work, including David Foreman). *Id.*

Mr. Wilson believes the FBI to have requested records they failed to disclose. In part, Mr. Wilson believes this because Mr. Wilson visited Steve Garber early in 1999 in Prescott, AZ. Mr. Wilson believes, by Mr. Garber's own admission, and as attested by Susan Holmes, that Mr. Garber worked for the FBI as an undercover operative, co-operating with the FBI in some capacity such as an FBI contractor, informant or in some other capacity. *Id.* Mr. Wilson wants records from the report or recording that may have been made.

Further, Mr. Wilson visited New York, New York in June 2004. He went on a walk with Steve Garber. During this time Steve Garber strongly insinuated to Mr. Wilson that Mr. Wilson had been targeted by the FBI on account of Mr. Wilson's 1996 analyst report. Mr. Garber revealed many things that he knew about Mr. Wilson's background, from his own sources.

Mr. Wilson again visited New York, New York in September 2004. He again met with Steve Garber. Mr. Garber confirmed in this discussion that he worked for the FBI and that Mr. Wilson was being targeted for the report that Mr. Wilson published on Freeport McMoran Copper and Gold Inc. Mr. Wilson asked Mr. Garber if the FBI was responsible for the attack (comprising aggressive intrusions and interference in Mr. Wilson's life) on Mr. Wilson and Mr. Garber said yes. Mr. Garber said he occasionally did this type of work for the FBI and the FBI would likely deny the existence of his work. *Id.*

From 1994 to 1997 Ms. Susan Holmes and Mr. Wilson dated. On approximately ten or more occasions, Ms. Holmes informed Mr. Wilson that she worked for the FBI and several times discussed in extensive detail her background work for the FBI, including but not limited to her role, training, and past operations. Ms. Holmes showed Mr. Wilson her FBI ID card at her NYC apartment. It was late 1994. It was a credit card sized plastic card with an image of her face on it and set on a blackish background. *Id.* Ms. Holmes used her FBI card in front of Mr. Wilson in 1996 to gain access past a security point at an Irish folk music concert in NYC. *Id.*

Ms. Holmes focused on environmental extremists for the FBI. *Id.*

Mr. Wilson was present or accompanied her on several FBI related undertakings. On several occasions, Ms. Holmes asked Mr. Wilson to accompany her on trips and to social gatherings that she later informed him had been part of her FBI assignments. One involved an unofficial Sierra Club volunteers after work drinks gathering around 1995-6 in a restaurant in NYC with a Montana

tree spiking suspect James B. who was subsequently prosecuted, and at which a number of other undercover FBI agents were present. *Id.*

Ms. Holmes showed Mr. Wilson her FBI wire device used for covert recording, with two leads, one running over each shoulder and joining at the front. She used this on the above gathering with a suspected tree spiker from Missoula, Montana visiting NYC around 1995 -96. *Id.*

Ms. Holmes told Mr. Wilson that she had received firearms training from the FBI, that she had an FBI issued handgun that she kept in her apartment, and that she regularly attended FBI training programs at Quantico. *Id.*

Ms. Holmes told Mr. Wilson several times between 1994 and 1997 that she focused on eco-extremists for the FBI in the eastern half of the U.S.A. *Id.*

The DOJ/FBI have consistently sidestepped the claim that Ms. Holmes and Mr. Garber were operatives despite their admissions to the fact. The DOJ/FBI refusal to respond to assertions that Ms. Holmes and Mr. Garber were operatives of the FBI is evidence of agency "bad faith".

The FBI has vindictively investigated Mr. Wilson because of his Freeport McMoran work in 1996.

Mr. Wilson has knowledge that the FBI had a case concerning him. Mr. Wilson demands to know what the case was about, when did it start/close, and why all of the information concerning the investigation of him is being withheld.

Mr. Wilson demands to know why and when information on him was collected by the FBI.

For these reasons, Mr. Wilson believes that the FBI has records, which he lawfully requested under FOIPA, and which have not been provided to Mr. Wilson by the FBI.

## **VI. CONCLUSION**

As described above, the FBI has failed to conduct a reasonable search in response to a FOIA request that specifically describes the documents sought.

Accordingly, the FBI must conduct an adequate search for responsive records and produce all responsive records by a certain date. In so doing, the FBI must also provide an estimated date of completion of its release of the records. 5 U.S.C. § 552 (a)(7)(B).

Please notify me of the date you receive this FOIA Appeal and the number you assign to identify this FOIA Appeal. I expect your timely resolution of this matter. Do not hesitate to contact me with any questions regarding this appeal. Please contact me at [peter@sorensonfoialaw.com](mailto:peter@sorensonfoialaw.com) or Sorenson Law Office, PO Box 10836, Eugene, Oregon 97440.



C. Peter Sorenson

Sorenson Law Office

PO Box 10836

Eugene, Oregon 97440

Enclosures:

Ex. 1 Mr. Wilson's FOIA request dated May 20, 2022.

Ex. 2 FBI response dated June 6, 2022.

Ex. 3 FBI response dated June 13, 2022.

Ex. 4 Declaration of Mr. John Christian Wilson.